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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,064	04/12/2002	Jeremy Dennis Bartlett	Q68069	6007

7590 08/03/2005

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2100 Pennsylvania Avenue NW
Washington, DC 20037-3202

EXAMINER

THALER, MICHAEL H

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 08/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Talk

Office Action Summary	Application No. 10/031,064	Applicant(s) BARTLETT, JEREMY DENNIS	
	Examiner Michael Thaler	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 4, line 2, it is unclear what "next-but-one" means.

Claims 1-4 and 6-10 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Applicant's Disclosure. Applicant admits that the stent shown on the right side of figure 3 and described at the top of the table shown in figure 4 is prior art. The prior art filament ends are fixed together by placing the filaments over one another and placing them adjacent to and substantially parallel to one another. (The filaments are substantially parallel to one another since they are oriented in the same direction as they are helically wound around each other.) Alternatively, it would have been obvious that the filaments are substantially parallel to one another for this reason. As to claim 2, the filaments are biased toward the expanded configuration and therefore the respective filaments are biased out of alignment with the adjacent filament. As to claims 3, 4, 6 and 8, the welded bead at the extreme end of the twisted end and described as a "Welded Bead" in figure 4 provides a shoulder in a rearward axial direction due to the bead having a diameter

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which is larger than the diameter of the wire. As to claim 10, the filaments are parallel to each other at the helical twisted area and are therefore joined at an angle of zero degrees.

Claims 5 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Disclosure. The admitted prior art fails to disclose some but not all of the filaments being welded. However, it is old and well known to weld only some of the filaments of a stent in order to, for example, simplify its construction. It would have been obvious to so construct the admitted prior art stent so that it too would have this advantage. The above well known in the art statement is taken to be admitted prior art because applicant failed to traverse the examiner's assertion (M.P.E.P. 2144.03).

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Disclosure in view of Wallsten et al. (5,061,275). The admitted prior art fails to disclose the filaments bending outwardly. However, Wallsten et al. teach that the ends of filaments of a stent, when unloaded, should bend radially outwardly so that it has the advantage that when implanted, it will have a substantially constant diameter. It would have been obvious to so shape the admitted prior filaments so that it too would have this advantage. Note that the angle at which the filaments bend increases as the filaments extend

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toward the ends of the stent as shown in figure 8 of Wallsten et al., for example.

Applicant's arguments filed June 17, 2005 have been fully considered but they are not persuasive. As to the rejection of claim 4 under 35 U.S.C. 112, second paragraph, contrary to applicant's remarks, the description of the invention from page 9, line 27 to page 10, line 7 does not include the term "next-but-one" or an explanation of what this term means. As to the term "Applicant's Disclosure" any feature or device which is admitted by applicant as being prior art may be also considered by the examiner as being prior art and used against the claims of the instant application. As to claim 1, the admitted prior art clearly shows the filaments being substantially parallel to one another as claimed since they are oriented in the same direction as they are helically wound around each other.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will

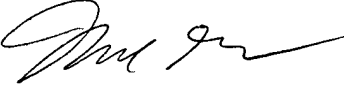
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expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571)272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

mht
8/1/05



MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731